

Case No. 4:21-cv-00326-JCB-RSP

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FEYSAL AYATI-GHAFFARI, Appellant

v.

CAREY D. EBERT, Standing Chapter 13 Trustee, Appellee

On Appeal from the United States Bankruptcy Court
for the Eastern District of Texas,
Sherman Division, Judge Brenda T. Rhodes, Presiding

**APPELLEE JPMORGAN CHASE BANK, N.A. RESPONSE TO MOTION
TO APPROVE THE FORM OF THE FINAL JUDGMENT**

Appellee JPMorgan Chase Bank, N.A. (Chase) files this response to the Memorandum in Support of Motion to Approve the Form of the Final Judgment No-Creditor Exists-Automatic and Execution Order filed Appellant Feysal Ayati-Ghaffari (Doc. 34) and would show this Court as follows:

1. This is an appeal from the bankruptcy court's April 8, 2021 order overruling Ayati-Ghaffari's objection to the Trustee's Final Report.

2. In his motion, Ayati-Ghaffari seeks to have judgment entered in his favor based on an alleged failure of Chase to establish its right to enforce a note and deed of trust.

3. In prior litigation, Chase has repeatedly secured rulings on the merits recognizing its standing to foreclose. *Ayati-Ghaffari v. JP Morgan Chase Bank, Nat'l Ass'n*, 05-17-00482-CV, 2018 WL 1602528, at *1 (Tex. App.—Dallas Apr. 3, 2018, pet. denied), reh'g denied (May 2, 2018); *Ayati-Ghaffari v. JP Morgan Chase Bank, N.A.*, 4:18-CV-483, 2019 WL 1275367, at *3 (E.D. Tex. Mar. 20, 2019); *Ayati-Ghaffari v. Dimon*, 4:19-CV-533, 2020 WL 1074301, at *2 (E.D. Tex. Mar. 6, 2020), appeal dismissed 20-40202, 2020 WL 5526675 (5th Cir. Aug. 6, 2020). Any claims Ayati-Ghaffari is attempting to now assert regarding Chase's ability to foreclose are barred by res judicata.

4. Further, to the extent Ayati-Ghaffari is actually seeking an order in his favor on the merits, this appeal is not concerned with any substantive decision by the bankruptcy court on the merits. Instead, the sole issue is whether the bankruptcy court erred in approving a Trustee's Final Report, an issue that (1) Ayati-Ghaffari lacks standing to challenge, and (2) he failed to adequately brief. Further, even if the issue is properly presented, the bankruptcy court correctly overruled the objection where the bankruptcy was dismissed without approval of a plan and accordingly, any prior ruling on Chase's proof of claim was a nullity.

WHEREFORE, PREMISES CONSIDERED, Appellee, JPMorgan Chase Bank, N.A. respectfully requests that Ayati-Ghaffari's Motion to Approve the Form of the Final Judgment be denied and for such other and further relief to which Chase shows itself to be justly entitled.

Respectfully submitted,

/s/ Marcie L. Schout

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**ATTORNEYS FOR APPELLEE
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been furnished to Pro Se Appellant, via certified mail return receipt requested, with a courtesy copy via email, this 5th day of January, 2022 at the address indicated below:

Feysal Ayati-Ghaffari
2301 All Saints Lane
Plano, Texas 75025.

/s/ Marcie L. Schout

Marcie L. Schout